

THOMAS N. STEWART, III - #88128
ATTORNEY AT LAW
369 BLUE OAK LANE, 2nd FLOOR
CLAYTON, CA 94517
TELEPHONE (925) 672-8452
E-MAIL t_stew_3@yahoo.com
Attorneys for Rick Futia

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RICK FUTIA,

Plaintiff,

v.

FORTUNA DEL TIEMPO, LLC,

Defendant.

Case No. CV 14-1464 JSC

CERTIFICATION THAT CONSIDERATION
FOR THE SETTLEMENT HAS NOT
BEEN MADE, AND REQUEST TO VACATE
THE COURT'S ORDER OF DISMISSAL

_____ /
This case has settled orally. But signatures have not been exchanged. In this ADA case, the parties will be agreeing to modify the Restaurant at issue and pay money over time, beginning with the first installment payment due on January 1, 2015. Some of the injunctive relief will not be due until 2 years from the date the Settlement Agreement is effective.

Once the Settlement Agreement is signed, the Plaintiff will file a Stipulation of Dismissal; Order in which the Court is asked to retain jurisdiction for 3 years.

Therefore, the Court's Dismissal of this action should not have been filed, and must be vacated.

The Court's order dismissing the case states that a request to vacate the Order of Dismissal must be served on opposing counsel with a proof of service. This doesn't make sense, because all documents that are electronically filed are e-mailed to all counsel.

I declare under penalty of perjury that the foregoing is correct and that this Certification was executed on October 17, 2014.

S/Thomas N. Stewart, III

Attorney for Plaintiff

Dated: October 28, 2014

